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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

DE'MARIAN A. CLEMONS,
Plaintiff,

vs.

BRIAN WILLIAMS, *et. al.*,
Defendants.

Case No.: 2:13-cv-93-RFB-NJK

**MOTION TO APPOINT PRO BONO
COUNSEL UNDER 28 U.S.C. § 1915(e)
AND PROPOSED ORDER**

Pursuant to the Ninth Circuit's decision in *Clemons v. Hill*, 743 Fed. App'x. 885 (9th Cir. 2018), Plaintiff De'Marian A. Clemons hereby submits this Motion to Appoint Michael L. Rosenthal and Stephen F. Raiola of Covington & Burling LLP and Jason K. Hicks of Greenberg Traurig, LLP, as *pro bono* counsel under 28 U.S.C. § 1915(e)(1).

This Motion is based upon the papers and pleadings on file, the attached memorandum of points and authorities, and the entire record in this case.

MEMORANDUM OF POINTS AND AUTHORITIES

On November 29, 2018, the Ninth Circuit reversed and vacated the judgment of this Court in the case captioned *De'Marian Clemons v. Brian Williams et. al.*, No. 2:13-cv-00093. *See* ECF No. 210. In its opinion that accompanied the order remanding this case, the Ninth Circuit directed this Court “to appoint counsel to represent Clemons” under 28 U.S.C. § 1915(e)(1). *Clemons v. Hill*, 743 Fed. App’x. 885 (9th Cir. 2018). It also instructed Mr. Clemons’s appellate *pro bono* counsel, Messrs. Rosenthal and Raiola, to “advise the district court following the issuance of the mandate” if they were “able and willing to accept the assignment” to represent Mr. Clemons on remand. *Id.*

Consistent with the Ninth Circuit’s order, I am advising this Court that Messrs. Rosenthal and Raiola are able and willing to accept the assignment to serve as Mr. Clemons’s appointed *pro bono* counsel under 28 U.S.C. § 1915(e)(1). I am also separately filing motions for the *pro hac vice* admission of Messrs. Rosenthal and Raiola so that they may practice in this particular case.

Based on the foregoing, Mr. Clemons respectfully requests that this Court appoint Messrs. Rosenthal and Raiola of Covington & Burling LLP and the undersigned as Mr. Clemons’s counsel under § 1915(e)(1). Lastly, Mr. Clemons remains incarcerated and indigent, and therefore unable to pay fees and costs associated with this litigation. Therefore, Mr. Clemons respectfully requests that the Court continue to allow him to prosecute this case *in forma pauperis*, as has been previously ordered by Magistrate Judge Koppe. *See* ECF No. 12.

DATED this 10th day of April 2019.

Respectfully submitted,

GREENBERG TRAURIG LLP

/s/ Jason Hicks

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ORDER

Pursuant to the Ninth Circuit's decision in *Clemons v. Hill*, 743 Fed. App'x. 885 (9th Cir. 2018), **THE COURT HEREBY FINDS** that **DE'MARIAN A. CLEMONS** is entitled to the appointment counsel under 28 U.S.C. § 1915(e)(1).

Because Clemons's current pro bono counsel is willing and able to accept the assignment and has associated with local counsel in order to permissibly practice in the United States District Court for the District of Nevada, **IT IS HEREBY ORDERED** that Clemons's Motion to Appoint Michael L. Rosenthal and Stephen F. Raiola of Covington & Burling LLP and Jason K. Hicks of Greenberg Traurig, LLP as pro bono counsel under 28 U.S.C. § 1915(e)(1) is **GRANTED**.

IT IS FURTHER ORDERED that Mr. Clemons shall be permitted to prosecute this case *in forma pauperis*.

Dated this 17 day of April 2019.


UNITED STATES MAGISTRATE JUDGE